

FULL TEXT OF MEASURE D COUNTY OF ORANGE

The People of the County of Orange, California, ordain:

Section 1. Title.

This ordinance shall be known and may be cited as the Guaranteed Fire Protection and Firefighter Safety Funding Ordinance.

Section 2. Findings.

(a) The People of the County of Orange find that it is necessary and appropriate to provide a legislative guarantee that public safety services in Orange County, including fire protection services, are adequately funded to meet the public safety needs of the County.

(b) In 1993, California voters passed Proposition 172 which earmarked one-half cent of the existing sales tax for local public safety services, including law enforcement, prosecutors, and fire protection.

(c) Proposition 172 gives the County the authority to allocate Proposition 172 money among law enforcement, prosecutors, and fire protection. Although Orange County has received approximately 1.8 billion dollars in Proposition 172 money since the passage of Proposition 172, none of this money has been allocated to the Orange County Fire Authority.

(d) It is the desire of the People of the County of Orange that no new taxes be imposed and that the existing public safety sales tax revenues be fairly apportioned so that the Orange County Fire Authority can receive a phased-in level of funding while minimizing the impact on any other eligible public safety service provider in the County.

(e) The People of Orange County recognize that the Orange County Fire Authority is charged with providing fire protection services to the unincorporated area of the County and two-thirds of our cities and urban areas. The Orange County Fire Authority is also responsible for responding to regional fire protection incidents in addition to providing for specialized services, life safety needs, and emergency situations for the benefit of all cities and residents of Orange County.

(f) The Orange County Fire Authority will be a first responder to major wildfires, hazardous materials incidents, and major disasters that occur in the County and throughout Southern California.

(g) In the event of a terrorist incident, the men and women of the Orange County Fire Authority will be among the first to respond to protect the lives and property of Orange County residents as well as residents throughout Southern California.

(h) Due to lack of funding, the Orange County Fire Authority has been forced to keep equipment in use that should have been replaced long ago, including Vietnam era helicopters and aging wildfire fighting trucks.

(i) Firefighters put their lives on the line for our safety and government has the responsibility to ensure that they have the best equipment to enable them to do their work safely and efficiently.

(j) It is the will of the People of Orange County that the Orange County Fire Authority be appropriately funded to provide the highest quality response and ensure the safety and protection of our residents and communities.

(k) This ordinance is intended to guarantee that the Orange County Fire Authority receives an appropriate and fair share of the existing sales tax revenues that are specifically allocated under our State Constitution for funding of public safety services to supplement the revenues needed to provide fire protection services in the County.

(l) Consistent with the provisions of Proposition 172 and the Legislature's implementing legislation, the funds allocated to the Orange County Fire Authority pursuant to the provisions of this ordinance shall be used to supplement the services provided by the Authority and shall not be used to supplant funding for existing programs. In compliance with these requirements, the Authority anticipates using its allocation of funds under this ordinance for two purposes: (a) increasing fire response and paramedic services over the level of services in existence on the effective date of this ordinance; and (b) repairing, replacing, or acquiring emergency response equipment, facilities, and vehicles including water dropping helicopters.

Section 3. Section 1-2-42 is added to the County Code of Orange County to read:

Sec. 1-2-42. Allocations of County Share of Public Safety Augmentation Fund.

A. Definitions.

For the purpose of this Ordinance, the following definitions will apply:

"Authority" means the Orange County Fire Authority, a joint powers authority organized under the laws of the State of California, or a successor public agency to the Authority.

"Base Year" means fiscal year 2004 - 05.

"Base Year Amount" means the total amount of the County's Share for fiscal year 2004 - 05.

"County's Share" means the portion of the Fund that is not allocated to cities under the Law.

"Fund" means the Public Safety Augmentation Fund created in the County pursuant to the terms of the Law.

"Law" means the Local Public Safety Fund Law (California Government Code, Title 3, Division 3, Chapter 6.5, Section 3051 *et seq.*), as may be amended from time to time, and as intended as the legislative implementation of Article XIII, Section 35 of the California State Constitution.

B. Public Safety Funding.

Pursuant to the provisions of the Law there has been created in the County a Fund that consists of all revenues received by the County pursuant to the Law. The monies in the Fund can only be expended for the purposes and subject to the limitations provided in the Law. The Law requires the County Auditor to make allocations to the cities in the County pursuant to specific provisions in the Law and that all moneys in the Fund that are not distributed to the cities are to be allocated to the County as the County's Share. Commencing on July 1, 2005, the County Auditor shall allocate a portion of the County's Share of the Fund pursuant to the following:

(1) The total amount of the County's Share of the Fund for the Base Year shall be established as the Base Year Amount for the calculation of all future allocations of moneys from the County's Share of the Fund.

(2) For fiscal year 2005 - 06, and for each fiscal year thereafter until the provisions of paragraph (4) below become operative, the Base Year Amount shall be subtracted from the total amount of the County's Share during each such fiscal year and if the resulting number is positive, fifty percent (50%) of that amount will be allocated to the Authority and the remaining fifty percent (50%), as well as the Base Year Amount, will be subject to allocation to eligible public safety providers in the manner provided under the Law.

(3) For fiscal year 2005 - 06 or any year thereafter in which the Base Year Amount is greater than the County's Share, the Auditor shall not make any allocation of Public Safety Augmentation Funds to the Authority for such fiscal year.

(4) The calculations and allocations described in paragraphs (1), (2), and (3) shall continue until such time as the amount paid to the Authority in any fiscal year from the County's Share equals ten percent (10%) of the County's Share and from such day and for each fiscal year thereafter the Auditor shall allocate ten percent (10%) of the County's Share to the Authority and the remaining ninety percent (90%) will be subject to allocation to eligible public safety providers in the manner provided under the Law.

Section 4. Amendment.

This ordinance shall not be modified, amended, or repealed, except by a majority vote of the electorate.

Section 5. Conflicts and Competing Measures.

A. In the event this Ordinance conflicts with the terms of any other ordinance, resolution, or policy of the County, this Ordinance shall control.

B. In the event that another measure ("competing measure") appears on the same ballot as this Ordinance which seeks to adopt or impose provisions or requirements that differ in any regard to, or supplement, the provisions or requirements contained in this Ordinance, the voters hereby expressly declare their intent that if both the competing measure and this Ordinance receive a majority of votes cast, and if this Ordinance receives a greater number of votes than the competing measure, this Ordinance shall prevail in its entirety over the competing measure without regard to whether specific provisions of each measure directly conflict with each other.

C. In the event that both the competing measure and this Ordinance receive a majority of votes cast, and the competing measure receives a greater number of votes than this Ordinance, this Ordinance shall be deemed complementary to the competing measure. To this end, and to the maximum extent permitted by law, the provisions of this Ordinance shall be fully adopted except to the extent that specific provisions contained in each measure are deemed to be in direct conflict with each other on a "provision-by-provision" basis pursuant to *Yoshisato v. Superior Court* (1992) 2 Cal. 4th 978.

Section 6. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of Orange County hereby declare that they would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsection, subdivision, sentence, clause, phrase, or portions thereof be declared invalid or unconstitutional.

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
MEASURE D**

In 1993, California voters approved the Local Public Safety Protection and Improvement Act of 1993 (Proposition 172), a constitutional amendment, directing that proceeds of a one-half cent statewide sales tax be used only for local public safety services. Qualified counties, including Orange County, receive allocations of Proposition 172 funds from the State. Within each qualified county, the Proposition 172 funds are allocated to cities that provide local public safety services, and the remainder is allocated to the county. Proposition 172 funds must be used for public safety services as specified in California law, including sheriffs, police, fire protection, county district attorneys, county corrections and ocean lifeguards. Currently, Orange County's share of Proposition 172 funds that is not allocated to the cities (the "County's Share") is allocated to the County Sheriff-Coroner and District Attorney for law enforcement services.

The Orange County Fire Authority ("OCFA") is a joint powers authority, serving 43% of the County's total population. Its members consist of 22 of the County's 34 cities and the County. OCFA provides fire protection and emergency medical services in its member cities and the unincorporated area of the County.

If this measure is adopted, a portion of the County's Share would shift to OCFA as follows: Beginning with the 2005-2006 fiscal year and continuing each subsequent fiscal year until the allocation formula changes, the amount of the County's Share for fiscal year 2004-2005 ("Base Year Amount") would be subtracted from the County's Share. If the resulting figure is a positive number, 50% of that amount would be allocated to OCFA, and 50% plus the Base Year Amount would be allocated to the County for allocation to public safety providers as specified in California law. However, for any year that the Base Year Amount is greater than the County's Share, OCFA would not be entitled to receive any of the Proposition 172 funds.

The allocation formula would change once the amount paid to OCFA in any fiscal year equals 10% of the County's Share. Thereafter, 10% of the County's Share would be allocated to OCFA, and 90% would be allocated to the County for allocation to public safety providers as specified in California law. OCFA's allocation of Proposition 172 Funds would be capped at 10% of the County's Share.

The measure provides that Proposition 172 funds allocated to OCFA will be used to supplement services rather than replace funding for existing programs.

The measure states that it would take precedence over competing County ordinances, resolutions and policies and it may be amended or repealed only by a vote of the people.

The measure provides that if this measure and another competing measure each receive a majority of votes cast but this measure receives more votes than the competing measure, the voters intend that this measure will prevail in its entirety, but if a competing measure receives more votes, this measure will be adopted except for any provisions in direct conflict with the competing measure.

MEASURE D
Initiative Reallocating a Portion of County's Proposition 172 Funds from
the County Sheriff-Coroner and District Attorney to the Orange County Fire Authority
Fiscal Impact Statement

Based on the Elections Code, this fiscal impact statement is limited to the measure's effect on the "County's" expenditures and revenues. The "County" is defined as those functions governed by the Orange County Board of Supervisors and does not include functions under the control of the Orange County Fire Authority or city councils.

If passed, the measure would transfer funding from the County of Orange to the Orange County Fire Authority. The funding formula for the transfer allocates to the Fire Authority one half of the increase in Proposition 172 sales tax growth up to 10 percent of the total of the Proposition 172 sales tax revenues. This transfer would amount to an estimated \$7,076,754 for fiscal year 2005-06, the first year affected by the ordinance and grow to \$34,591,496 by 2010-11. The County would lose approximately \$333,615,557 earmarked for public safety during the first 11 years of implementation.

In 1993, the California voters approved the Local Public Safety Protection and Improvement Act of 1993 (Proposition 172) as a mitigation measure to offset the impact of the Education Revenue Augmentation Fund ("ERAF") shifts on municipal budgets. In 1992 and 1993, the California Legislature and Governor instructed county auditors to shift the allocation of local property tax revenues from local government to ERAF for the benefit of schools. The allocation formula is based on the proportionate share of net property tax loss due to the ERAF shift. The following table illustrates the relationship between these ERAF shifts and Proposition 172 County revenues:

Year	ERAF	Proposition 172	Variance
1992-93	\$(14,527,988)		\$(14,527,988)
1993-94	(159,328,571)	\$130,357,584	(28,970,987)
1994-95	(157,840,022)	141,143,489	(16,696,533)
1995-96	(158,216,656)	152,494,439	(5,722,217)
1996-97	(159,372,366)	161,186,301	1,813,935
1997-98	(164,444,481)	173,665,323	9,220,842
1998-99	(174,106,932)	184,049,906	9,942,974
1999-00	(188,481,617)	209,748,928	21,267,311
2000-01	(206,551,203)	223,604,856	17,053,653
2001-02	(225,274,561)	213,607,460	(11,667,101)
2002-03	(244,917,635)	219,562,310	(25,355,325)
2003-04	(261,247,391)	236,946,901	(24,300,490)
2004-05	<u>(283,310,895)</u>	<u>262,101,986</u>	<u>(21,208,909)</u>
	<u>\$(2,397,620,318)</u>	<u>\$2,308,469,483</u>	<u>\$(89,150,835)</u>

There are no plans in the State for reducing or eliminating these ERAF shifts. A separate shift, not illustrated in the table above, took \$27,730,861 from the County's 2004-05 budget and will take an additional \$27,730,861 from the 2005-06 budget.

The County's "discretionary" funding for public safety programs is budgeted at \$182,652,995 for 2005-06. When added to Proposition 172 funds, spending for public safety will amount to about \$458,908,488. Accordingly, Proposition 172 funding represents approximately 60 percent of the County's budget used to support the County's public safety programs. The following table illustrates the estimated effects of the measure on the County's public safety programs:

	Estimated Countywide Spending	Estimated Countywide Public Safety Reductions Under the Measure		Estimated Countywide Public Safety Spending	Estimated Countywide Public Safety Reductions Under the Measure
			2010-11	\$532,000,713	\$34,591,496
2005-06	\$458,908,488	\$7,076,754	2011-12	547,960,734	36,182,705
2006-07	472,675,743	13,430,630	2012-13	564,399,556	37,847,109
2007-08	486,856,015	20,076,785	2013-14	581,331,543	39,588,076
2008-09	501,461,696	27,028,662	2014-15	598,771,489	41,409,128
2009-10	516,505,547	33,070,264	2015-16	<u>616,734,634</u>	<u>43,313,948</u>
				<u>\$5,877,606,158</u>	<u>\$333,615,557</u>

The transfer of \$333,615,557 would amount to a 5.7 percent reduction in County funding available for its countywide public safety programs over the first 11 years of implementation.

David E. Sundstrom
County Auditor-Controller

ARGUMENT IN FAVOR OF MEASURE D

The firefighters' Measure D does not raise any taxes. In 1993, while homes burned in Laguna Beach, voters in Orange County adopted Proposition 172, which extended a half-cent sales tax to be used exclusively to fund ***fire protection***, police, and other public safety programs. As indicated in the statewide ballot pamphlet argument printed in favor of Proposition 172, the voters were ***promised*** that a portion of Proposition 172 funds would go to ***fire protection***.

Since the passage of Proposition 172, over \$2 billion in funds have been given to the County, yet the Board of Supervisors has failed to provide one penny from the Proposition 172 fund for fire protection.

As a result of this, your Orange County Fire Authority firefighters rely upon aging equipment such as Vietnam-era helicopters and twenty-year-old fire engines. A more serious concern is that over half of your Orange County Fire Authority fire stations are understaffed.

The firefighters' **Measure D** forces the Board of Supervisors to honor a promise made to voters in 1993 by providing that 10% of future growth in Proposition 172 funds will be allocated to the Orange County Fire Authority, the County's fire department that serves over 1.3 million residents county wide and provides specialized emergency services to virtually every city in Orange County.

The demands placed upon your firefighters have never been greater. Firefighters provide emergency response capabilities to potential terrorist attacks, including biological and hazardous materials response crews. This measure will improve paramedic response times and make our communities safer from the threat of fire.

This measure will not reduce current funding for law enforcement in any way.

Your firefighters have always been there for you. Today, they need your help. Please vote **YES ON FIREFIGHTERS' MEASURE D**.

s/ Ken Blake, Mayor of the City of La Palma

s/ James Lacy, Dana Point City Council

s/ State Senator Bill Morrow

s/ Mike Boyle, President of the Orange County Fire Authority Chief Officer's Association

s/ Joe Kerr, President of the Orange County Professional Firefighters

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE D

The proponents of Measure D should be ashamed of their misleading ballot argument. Here are the facts about Measure D and the Orange County Fire Authority.

FACT: Measure D is a tax grab that will REDUCE law enforcement services for every community throughout Orange County.

FACT: The Fire Authority is a special district serving only 43% of Orange County residents, yet they want to collect tax money from 100% of Orange County taxpayers. That's why Orange County taxpayers OPPOSE Measure D.

FACT: Eliminating law enforcement patrols and criminal prosecutors in our courts will result in INCREASED CRIME for many Orange County communities. That's why police officers, district attorneys, deputy sheriffs, senior citizens and crime victims OPPOSE Measure D.

FACT: The Fire Authority was NOT promised Proposition 172 funds in 1993. These tax monies are paid by all Orange County taxpayers and are used for countywide public safety services—not regional fire authority bureaucracies. That's why our elected County Supervisors unanimously OPPOSE Measure D.

FACT: The Fire Authority has a substantial budget surplus. If their fire stations are truly understaffed, then why did the Fire Authority recently spend \$50 million to build a new luxury Administration Building that even their own ballot signer, Joe Kerr, called a "multi-million-dollar Taj Mahal"? The Fire Authority needs more financial accountability, NOT more of our tax dollars!

Stop the Fire Authority tax grab and support public safety protection for ALL of Orange County. VOTE NO on Measure D.

s/ Bill Campbell
Chairman, Orange County Board of Supervisors

s/ Todd Spitzer
State Assembly Member

s/ Tony Rackauckas
Orange County District Attorney

s/ Mark Nichols
Chairman-O. C. Coalition of Police and Sheriff's

s/ Erin D. Runnion
Founder, The Joyful Child Foundation - In Memory of Samantha Runnion

ARGUMENT AGAINST MEASURE D

Crime Victims, Police, Deputy Sheriffs, Prosecutors, Senior Citizens and Orange County Taxpayers urge you to VOTE NO on Measure D.

Measure D is a money grab by bureaucrats at the Fire Authority that would put the safety and security of Orange County residents at risk by diverting tens of millions of our tax dollars away from law enforcement and threatening the County's financial stability.

CRIME VICTIMS OPPOSE Measure D because it would reduce the number of deputy sheriffs patrolling our neighborhoods and schools. Fewer sheriff patrols mean less protection for our children, our families and our homes.

POLICE and DEPUTY SHERIFFS OPPOSE Measure D because it would lead to increased crime in our communities. By eliminating as many as 210 sheriff's positions, including frontline patrol officers, Measure D would seriously erode county law enforcement's ability to prevent crime and combat lawbreakers.

PROSECUTORS OPPOSE Measure D because it would take away resources they need to put sexual predators, gang members and other violent criminals behind bars.

SENIOR CITIZENS OPPOSE Measure D because it would leave our elderly population at a greater risk of exploitation from criminal offenses such as identity theft.

TAXPAYERS OPPOSE Measure D because it would cut county law enforcement services by \$30 million dollars per year or lead to higher taxes for county residents.

An Independent Financial Impact Analysis conducted in September found that Measure D would force Orange County to reduce its law enforcement services by 10%. The study also determined that "all cities in Orange County will be impacted by reductions in Sheriff's Department and District Attorney's Office public safety services."

The people of Orange County cannot allow the greed of a handful of Fire Authority bureaucrats to jeopardize our safety and our quality of life.

Please VOTE NO on Measure D.

s/ Bill Campbell
Chairman, Orange County Board of Supervisors

s/ Tom McClintock
State Senator

s/ Tony Rackauckas
Orange County District Attorney

s/ Mark Nichols
Chairman-Orange County Coalition of Police and Sheriff's

s/ Erin D. Runnion
Founder, The Joyful Child Foundation - In Memory of Samantha Runnion

REBUTTAL TO ARGUMENT AGAINST MEASURE D

Don't be fooled by County bureaucrats and their same old scare tactics.

No Deputy Sheriff or member of the District Attorney's Office will lose their job because of **Firefighters' Measure D**. The Superior Court rejected similar arguments promoted by County bureaucrats, and so should you.

Firefighters' Measure D won't raise taxes. **Firefighters' Measure D** will increase paramedic service to all our residents, including senior citizens.

Firefighters' Measure D will replace 20 year old fire engines, Vietnam era helicopters and aging facilities.

Firefighters' Measure D ensures that your fire fighters remain on the front lines against the increasing risk of terrorist attacks and to protect innocent lives who might become victims of terrorist events.

Firefighters' Measure D requires the Board of Supervisors to follow the instructions voters gave them in 1993, during the devastating fire storms in Laguna Beach, Anaheim, Orange and Newport Coast.

Firefighters' Measure D requires the Board of Supervisors to share Proposition 172 funds with fire protection.

While he has since flip-flopped, in 1998, Sheriff Mike Carona said, "We will stand shoulder to shoulder," to support the fair and equitable redistribution of Proposition 172 funds. Join citizens, fire fighters and fire chiefs in supporting **Firefighters' Measure D**.

For more information go to: www.Firefightersforpublicsafety.com

When you need fire fighters, they are there to help you. Now, your fire fighters and paramedics need your help.

Please vote **YES ON FIREFIGHTERS' MEASURE D**.

s/ Ken Blake, Mayor of the City of La Palma

s/ James V. Lacy, Dana Point City Council

s/ Richard Chavez, Mayor Pro Tem of the City of Anaheim

s/ Mike Boyle, President of the Orange County Fire Authority Chief Officer's Association

s/ Joe Kerr, President of the Orange County Professional Firefighters' Association